

REMARKS

The above amendment with the following remarks is submitted to be fully responsive to the Office Action of February 18, 2005. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested.

Claims 1-21 were pending in the present application prior to the above amendment. In response to the Office Action, claims 1 and 12 have been amended above. Therefore, claims 1-21 are still pending in the present application and are believed to be in proper condition for allowance.

Referring now to the Office Action, claims 1-21 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,857,183 to Plasser et al. The Examiner asserts that Plasser discloses a mounting assembly on a rail car for a measurement device as recited in the present claims. In this regard, the Examiner asserts that Plasser discloses a pivot arm 14 that is connected to a securement member 18, the pivot arm having a lever arm extending upwardly and connecting to a swing arm 20 that is connected to a spring component 17 of the rail car. The Examiner also asserts that the swing arm of Plasser is adapted to rotate the pivot arm 14 so that the pivot arm is maintained substantially fixed height above the track surface 1. With respect to claims 17-21, the Examiner further asserts that Plasser secures the measurement device 11 to a rail car above a track surface, and moves the measurement device 11 in response to movement of a sprung component. The applicants respectfully disagree for the reasons set forth herein below.

Initially, it is noted that Plasser discloses surveying bogies 6 and 7 which are spaced apart in the direction of the track, and series of connecting elements that are linked to the surveying bogies so that relative movement therebetween can be measured. The bell crank levers 13 and 14, which are interpreted by the Examiner to be pivot arms as set forth in the present claims, are connected to the surveying bogies 6 and 7, respectively, so that relative movement between the bogies can be measured by a strain gauge means 17 that is attached to elastically deformable rods 16. Thus, the

crank levers 13 and 14 disclosed in Plasser are supported at the distal ends by the surveying bogies 6 and 7.

Independent claims 1 and 12 specifically recite that the swing arm connects the lever arm of the pivot arm to the sprung component of the rail car. The Examiner's interpretation of the strain gauge means 17 as corresponding to the recited sprung component is clearly improper. As known in the field of dynamics, a sprung component refers to a body or an object that is supported by a spring, a truck frame being one example of such a sprung component. Clearly, the disclosed strain gauge means 17 of Plasser is not a sprung component of the rail car as specifically recited in these claims.

In addition, independent claim 1 requires the swing arm to rotate the pivot arm so that the distal end of the pivot arm is maintained at a substantially fixed height distance above the track surface. Independent claim 12 alternatively recites moving the distal end of the pivot arm a vertical distance that offsets a vertical distance moved by the sprung component relative to the unsprung component. Moreover, independent claim 17 recites moving the position of a measurement device in response to movement of the sprung component relative to the unsprung component.

These recited features of the various independent claims of the present application are clearly not disclosed in Plasser in that the swing arm of Plasser (as interpreted by the Examiner) does not cause rotation of the pivot arm. Instead, the distal end of the pivot arm of Plasser is attached to the surveying bogie which would prevent any rotation or movement thereof. In addition, with respect to independent claim 17, Plasser fails to disclose moving the position of a measurement device in response to movement of the sprung component relative to the unsprung component so as to maintain a height distance above the track. Instead, the movement that is disclosed and measured by the apparatus of Plasser is the relative movement between the surveying bogie 6 and the surveying bogie 7, and/or a surveying bogie and an undercarriage 2, all of which are unsprung components.

Furthermore, the Examiner fails to establish where the cited Plasser reference discloses a crossbar mount specifically recited claim 5, or a crossbar recited in claims 6

and 15. The Examiner further fails to establish where the cited Plasser reference discloses a lever arm that is implemented as an extension flange as recited in claim 7, or a swing arm that is adjustable in length as specifically recited in claims 9 and 10.

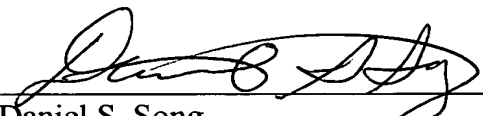
Therefore, in view of the above, the applicants respectfully contend that the Examiner's rejection based on Plasser is improper, and should be withdrawn. Correspondingly, the allowance of independent claims 1, 12, and 17, as well as dependent claims 2-11, 13-16, and 18-21 is respectfully requested.

Regardless of the deficiencies of the Examiner's rejection noted above, to expedite the prosecution of the present application, independent claims 1 and 12 have been amended above to specifically recite that the pivot arm includes a distal end that is cantilevered above the track surface of the railroad track. This feature is clearly shown in Figures 4, 6, and 7, and is further described in detail in paragraph 30 of the present application. Clearly, the cited Plasser reference, and the other references of record, fail to disclose, teach, or otherwise suggest, the present invention as claimed. Therefore, the allowance of claims 1-21 is respectfully requested.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,

Date: July 18, 2005


Daniel S. Song
Registration No. 43,143

NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128
(202) 585-8000
(202) 585-8080 (Fax)
Customer No. 22204